

SUPPLEMENTAL COMBINED DECLARATION FOR PATENT
APPLICATION AND POWER OF ATTORNEY
(Includes References to International Applications)

ATTORNEY'S DOCKET NUMBER
19603/1661 (CRF D-2098A)

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA AMYLOVORA*, ITS USE, AND ENCODING GENE

the specification of which (check only one item below):

☐ is attached hereto.

☒ was filed as U.S. Patent Application Serial No. 09/120,663 on July 22, 1998 and was amended under PCT Article 19 on _____ (if applicable).

☐ was filed as PCT International Application No. _____ on _____ and was amended under PCT Article 19 on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above-identified specifications, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed:

PRIOR FOREIGN/PCT APPLICATION(S) AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. 119:

| COUNTRY (IF PCT, indicate "PCT") | APPLICATION NUMBER | DATE OF FILING (day, month, year) | PRIORITY CLAIMED UNDER 35 USC 119 |
|-------------------------------------|--------------------|--------------------------------------|---|
| United States | 60/055,106 | 06-AUG-1997 | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56(a) which occurred between the filing date of the prior application(s) and the national or PCT International filing date of this application:

PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. 120:

| U.S. APPLICATIONS | | STATUS (Check One) | | |
|---------------------------------------|------------------|--|---------|-----------|
| U.S. APPLICATION NUMBER | U.S. FILING DATE | PATENTED | PENDING | ABANDONED |
| | | | | |
| | | | | |
| PCT APPLICATIONS DESIGNATING THE U.S. | | | | |
| PCT APPLICATION NO. | PCT FILING DATE | U.S. SERIAL NUMBERS ASSIGNED (if any) | | |
| | | | | |
| | | | | |

19603/1661 (CRF D-2098A)

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. Michael L. Goldman, Registration No. 30,727; Gunnar G. Leinberg, Registration No. 35,584; Dennis M. Connolly, Registration No. 40,964; Edwin V. Merkel, Registration No. 40,087; Georgia Caton, Registration No. 44,597; Grant E. Pollack, Registration No. 34,097

Send Correspondence to:

Michael L. Goldman
Nixon Peabody LLP
Clinton Square, P.O. Box 1051
Rochester, New York 14603

Direct Telephone Calls to:
(name and telephone number)
Michael L. Goldman
(716) 263-1304

| | | | | |
|-----|-------------------------|---|-------------------------------------|---|
| 201 | FULL NAME OF INVENTOR | FAMILY NAME Bogdanove | FIRST GIVEN NAME Adam | SECOND GIVEN NAME J. |
| | RESIDENCE & CITIZENSHIP | CITY Ithaca | STATE/FOREIGN COUNTRY New York | COUNTRY OF CITIZENSHIP United States |
| | POST OFFICE ADDRESS | P.O. ADDRESS 37 Uptown Road | CITY Ithaca | STATE & ZIP CODE/CTRY New York 14850/USA |
| 202 | FULL NAME OF INVENTOR | FAMILY NAME Kim | FIRST GIVEN NAME Jihyun | SECOND GIVEN NAME Francis |
| | RESIDENCE & CITIZENSHIP | CITY Ithaca | STATE/FOREIGN COUNTRY New York | COUNTRY OF CITIZENSHIP Republic of Korea |
| | POST OFFICE ADDRESS | P.O. ADDRESS 2250 N. Triphammer Road, Apt. FL-4 | CITY Ithaca | STATE & ZIP CODE/CTRY New York 14850/USA |
| 203 | FULL NAME OF INVENTOR | FAMILY NAME Wei | FIRST GIVEN NAME Zhong-Min | SECOND GIVEN NAME |
| | RESIDENCE & CITIZENSHIP | CITY Kirkland | STATE/FOREIGN COUNTRY Washington | COUNTRY OF CITIZENSHIP United States |
| | POST OFFICE ADDRESS | P.O. ADDRESS 8230 125 th Court | CITY Kirkland | STATE & ZIP CODE/CTRY Washington 98034/USA |
| 204 | FULL NAME OF INVENTOR | FAMILY NAME Beer | FIRST GIVEN NAME Steven | SECOND GIVEN NAME V. |
| | RESIDENCE & CITIZENSHIP | CITY Ithaca | STATE/FOREIGN COUNTRY New York | COUNTRY OF CITIZENSHIP United States |
| | POST OFFICE ADDRESS | P.O. ADDRESS 211 Hudson Street | CITY Ithaca | STATE & ZIP CODE/CTRY New York 14850/USA |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

SIGNATURE OF INVENTOR 201

SIGNATURE OF INVENTOR 202

SIGNATURE OF INVENTOR 203

DATE

DATE

DATE

SIGNATURE OF INVENTOR 204

SIGNATURE OF INVENTOR 205

SIGNATURE OF INVENTOR 206

DATE

DATE

DATE

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| United States | 60/055,106 | 06-AUG-1997 | <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO |
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PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. 120:

| U.S. APPLICATIONS | | | STATUS (Check One) | | |
|---------------------------------------|------------------|--|--------------------|---------|-----------|
| U.S. APPLICATION NUMBER | U.S. FILING DATE | | PATENTED | PENDING | ABANDONED |
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| PCT APPLICATION NO. | PCT FILING DATE | U.S. SERIAL NUMBERS ASSIGNED (if any) | | | |
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Clinton Square, P.O. Box 1051
Rochester, New York 14603

Direct Telephone Calls to:
(name and telephone number)
Michael L. Goldman
(716) 263-1304

| | | | | |
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| 201 | FULL NAME OF INVENTOR | FAMILY NAME | FIRST GIVEN NAME | SECOND GIVEN NAME |
| | RESIDENCE & CITIZENSHIP | CITY | STATE/FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| | POST OFFICE ADDRESS | P.O. ADDRESS | CITY | STATE & ZIP CODE/CTRY |
| 202 | FULL NAME OF INVENTOR | FAMILY NAME | FIRST GIVEN NAME | SECOND GIVEN NAME |
| | RESIDENCE & CITIZENSHIP | CITY | STATE/FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| | POST OFFICE ADDRESS | P.O. ADDRESS | CITY | STATE & ZIP CODE/CTRY |
| 203 | FULL NAME OF INVENTOR | FAMILY NAME | FIRST GIVEN NAME | SECOND GIVEN NAME |
| | RESIDENCE & CITIZENSHIP | CITY | STATE/FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| | POST OFFICE ADDRESS | P.O. ADDRESS | CITY | STATE & ZIP CODE/CTRY |
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| | RESIDENCE & CITIZENSHIP | CITY | STATE/FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| | POST OFFICE ADDRESS | P.O. ADDRESS | CITY | STATE & ZIP CODE/CTRY |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application or any patent issuing thereon.

| | | |
|---------------------------|---------------------------|---------------------------|
| SIGNATURE OF INVENTOR 201 | SIGNATURE OF INVENTOR 202 | SIGNATURE OF INVENTOR 203 |
| DATE | DATE | DATE |
| SIGNATURE OF INVENTOR 204 | SIGNATURE OF INVENTOR 205 | SIGNATURE OF INVENTOR 206 |
| DATE | DATE | DATE |

Applicant or Patentee : Adam J. Bogdanove, Jihyun Francis Kim, Zhong-Min Wei, and
Steven V. Beer
Serial or Patent No. : 09/120,663
Filed or Issued : July 22, 1998
For : HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA*
AMYLOVORA, ITS USE, AND ENCODING GENE

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY
STATUS (37 CFR 1.9(F) AND 1.27(d)) - NONPROFIT ORGANIZATION**

I hereby declare that I am an official empowered to act on behalf of the nonprofit organization
identified below:

NAME OF ORGANIZATION : Cornell Research Foundation, Inc.
ADDRESS OF ORGANIZATION : Cornell Business & Technology Park
20 Thornwood Drive, Suite 105
Ithaca, New York 14850

TYPE OF ORGANIZATION :

- ☒ UNIVERSITY OR OTHER INSTITUTION OF HIGHER EDUCATION
- ☐ TAX EXEMPT UNDER INTERNAL REVENUE SERVICE CODE (26
USC 501(a) and 501(c)(3))
- ☐ NONPROFIT SCIENTIFIC OR EDUCATIONAL UNDER STATUTE OF
STATE OF THE UNITED STATES OF AMERICA (NAME OF STATE:)
(CITATION OF STATUTE:)
- ☐ WOULD QUALIFY AS TAX EXEMPT UNDER INTERNAL REVENUE
SERVICE CODE (26 USC 501(a) and 501(c)(3)) IF LOCATED IN THE
UNITED STATES OF AMERICA
- ☐ WOULD QUALIFY AS NONPROFIT SCIENTIFIC OR EDUCATIONAL
UNDER STATUTE OF STATE OF THE UNITED STATES OF AMERICA
IF LOCATED IN THE UNITED STATES OF AMERICA (NAME OF
STATE:) (CITATION OF STATUTE:)

I hereby declare that the nonprofit organization identified above qualifies as a nonprofit organization
as defined in 37 CFR 1.9(e) for purposes of paying reduced fees under Section 41(a) and (b) of
Title 35, United States Code with regard to the invention entitled **HYPERSENSITIVE RESPONSE
ELICITOR FROM *ERWINIA AMYLOVORA*, ITS USE, AND ENCODING GENE** by inventors
Adam J. Bogdanove, Jihyun Francis Kim, Zhong-Min Wei, and Steven V. Beer.

described in

- ☐ the specification filed herewith.
- ☒ U.S. Patent Application Serial No. 09/120,663,
filed July 22, 1998.

[] U.S. Patent No. _____, issued _____.

I hereby declare that rights under contract or law have been conveyed to and remain with the nonprofit organization with regard to the above identified invention.

If the rights held by the nonprofit organization are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).

*NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).

NAME : **EDEN Bioscience Corporation**
ADDRESS : **11816 North Creek Parkway N., Bothell, Washington 98011-8205**

[] INDIVIDUAL [X] SMALL BUSINESS CONCERN [] NONPROFIT ORGANIZATION

NAME :
ADDRESS :

[] INDIVIDUAL [] SMALL BUSINESS CONCERN [] NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any changes in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United State Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: **Richard S. Cahoon**
TITLE IN ORGANIZATION: **Vice President**
ADDRESS OF PERSON SIGNING: **20 Thornwood Drive, Suite 105
Ithaca, New York 14850**

SIGNATURE: Richard S. Cahoon DATE: Nov. 17, 1998

*Cornell Research Foundation, Inc., is a Corporation which is wholly owned by Cornell University handling Patents and Licensing.

Applicant or Patentee : Adam J. Bogdanove, Jihyun Francis Kim, Zhong-Min Wei, and
Steven V. Beer
Serial or Patent No. : 09/120,663
Filed or Issued : July 22, 1998
For : HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA*
AMYLOVORA, ITS USE, AND ENCODING GENE

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS
(37 CFR 1.9(f) and 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:
☒ an official of the small business concern empowered to act on behalf of the concern
identified below:

NAME OF CONCERN : EDEN Bioscience Corporation
ADDRESS OF CONCERN : 11816 North Creek Parkway N.
Bothell, Washington 98011-8205

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under section 41(a) and (b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention, entitled **HYPERSENSITIVE RESPONSE ELICITOR FROM *ERWINIA AMYLOVORA*, ITS USE, AND ENCODING GENE** by inventors Adam J. Bogdanove, Jihyun Francis Kim, Zhong-Min Wei, and Steven V. Beer described in

- ☐ the specification filed herewith
☒ U.S. Patent Application Serial No.: 09/120,663
Filed: July 22, 1998
☐ U.S. Patent No.:
Issued:

If the rights held by the above identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e). *NOTE: Separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27).

NAME : Cornell Research Foundation, Inc.
ADDRESS : Cornell Business & Technology Park, 20 Thornwood Drive, Suite 105
Ithaca, New York 14850

[] INDIVIDUAL [] SMALL BUSINESS CONCERN [X] NONPROFIT ORGANIZATION

NAME :
ADDRESS :

[] INDIVIDUAL [] SMALL BUSINESS CONCERN [] NONPROFIT ORGANIZATION

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b))

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING : Jerry L. Butler
TITLE OF PERSON OTHER THAN OWNER : President and Chief Executive Officer
ADDRESS OF PERSON SIGNING : 11816 North Creek Parkway N.
Bothell, Washington 98011-8205

SIGNATURE: _____



DATE: _____

4/13/98